

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WINPROVIT – SOLUÇÕES INTELIGENTES S.A.,

Plaintiffs,

23 cv 11155(PKC)

v.

Z & A INFOTEK CORP.
a/k/a Z AND A INFOTEK CORPORATION
a/k/a Z & A INFOTEK, INC.
D/B/A ZEN & ART,

ORDER

Defendant.

CASTEL, Senior Judge

This is a straightforward action in which plaintiff alleges in a single claim for relief that it and defendant entered into a written Work Order Agreement providing for twenty-four equal monthly payments to plaintiff starting January 1, 2022, and ending December 31, 2023. Defendant made payments through Month #13, January 2023, and then stopped paying. Plaintiff alleges that it is owed a total of \$650,474 in payments for the months of February through December of 2023.

Defendant claimed in response to an interrogatory posed by plaintiff that it “paused its payments to Plaintiff because Altice was conducting an internal investigation into Plaintiff. . . .” and that “[f]ollowing the investigation, Altice terminated its relationship with Plaintiff.” Altice, according to plaintiff, was a client of defendant.

Defendant now seeks to extend the discovery period for a second time for an unstated period of time to conduct discovery of Altice.

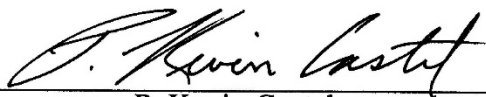
This action was commenced on December 22, 2023. Fact discovery was initially set to close on July 23, 2024. After a failed settlement, it was extended to February 3, 2025. Thereafter, at the request of defendant, the fact discovery period was extended to March 20, 2025.

Defendant asserts that it served a subpoena on Altice on February 26, 2025—less than a month before the extended discovery cut off--and made returnable on March 14, 2025. It learned on March 17, 2025, that Altice would require “several weeks” to respond. As defendant notes, the production of documents by Altice is a prelude to securing testimony from Altice by deposition.

Per its own interrogatory response, the Altice investigation was the reason defendant stopped paying plaintiff. This is not a fact that emerged in discovery. It is defendant’s own statement of its motivation for cessation of payment in early 2023. Defendant is chargeable with knowledge of its own reason for failing to pay plaintiff from the day it stopped paying, which was over two years ago.

Application for a further extension of fact discovery is DENIED.

SO ORDERED.


P. Kevin Castel
United States District Judge

Dated: New York, New York
March 19, 2025